

PROCEEDINGS OF THE HISTORIC CONSERVATION BOARD

MONDAY, AUGUST 25, 2003

3:00 P.M., J. MARTIN GRIESEL ROOM, CENTENNIAL PLAZA II

The Historic Conservation Board met at 3:00 P.M., in the J. Martin Griesel Room, Centennial Plaza II, with members Bloomfield, Kirk, Senhauser, Spraul-Schmidt, Sullebarger, and Wallace present. Absent: Clement, Kreider, and Raser

MINUTES

The minutes of the Monday, August 11, 2003 meeting were unanimously approved as amended (motion by Sullebarger, second by Kirk).

CERTIFICATE OF APPROPRIATENESS AND ENVIRONMENTAL QUALITY HEARING, 3742 SACHEM AVENUE, COLUMBIA-TUSCULUM HISTORIC DISTRICT, COLUMBIA-TUSCULUM EQ-HS NO. 5

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness for the construction of a new two-family residence at 3742 Sachem Avenue.

Ms. Cowden stated that the Board reviewed the preliminary design for the construction of this residence at its meeting on August 11, 2003.

[Ms. Wallace entered the meeting]

With the assistance of staff from Buildings and Inspections, the applicant modified his proposal so that it no longer requires variances. The tower has been eliminated and the building has been narrowed by 5', thereby reducing the square footage of each condo from 2400 to 2200 s.f. In addition, the house is banked into the hillside, so the entrance on the main façade is no longer visible from the public right-of-way. Overall, the layout of the residence is basically unchanged.

Ms. Cowden summarized new information:

- 1) The applicant met with Dan Johns of the Metropolitan Sewer District (MSD), resulting in a change in the site plan which now shows retaining walls to the rear and sides of the property, as well as the installation of drainage tiles which hook up with a 12" drainage pipe on the southeast corner of the property. MSD has not yet signed off on the plans.
- 2) Steve Briggs with the City's Community Development and Planning Department reviewed the proposal for compliance with the Environmental Quality-Hillside District guidelines and determined that the proposal meets the 49 general guidelines for all of the hillside districts, as well as the five specific guidelines for the Columbia-Tusculum EQ-HS (No. 5).
- 3) Staff received a petition opposing the granting of a Certificate of Appropriateness for the construction of the residence as proposed in the plans dated August 14, 2003. The petition was signed by over 70 residents.
- 4) Staff received two letters from the President of the Columbia-Tusculum Community Council. One letter was formulated after a council meeting in which

approximately 12 residents voiced opposition to the plan. The concerns involved scale and massing, placement on the lot, respect of views, stormwater, and compliance with the hillside and historic district guidelines. The second letter addresses compliance or noncompliance with each of the 49 general guidelines and the 5 specific guidelines for the Columbia-Tusculum Environmental Quality – Hillside District.

- 5) Comments from residents indicate a desire to see the house set back another 3' on the lot, which would require a rear yard variance. A 24' setback would align it with the house to the north and would likely be sufficient to protect views and the building pattern of the neighborhood.

Ms. Cowden stated that size and massing of the house is still a concern with staff. As proposed, the residence is significantly larger than the older residences in the district, which range from 1600 to 1700 s.f. In response to Mr. Kirk, Ms. Cowden stated that staff reviewed options, including subdividing the lot for two detached single family homes and constructing a duplex. Although staff did not receive specifics regarding the economic impact of the alternatives, the applicant stated it would represent a significant increase in cost. The applicant also indicated they believe there is a market for the residences as currently configured.

Mr. Senhauser questioned if the applicant would give consideration to moving the structure 3' to the rear. Mr. Garber stated they would be willing, but for every one foot they move the building back, they would like to move it up one foot to eliminate adjusting the retaining walls. The building would remain the same height.

Mr. Will Scott, 3752 Sachem, expressed concern with the mass and view obstruction. He pointed out that even if the house is moved back on the lot, his views from his backyard would still be blocked. In addition, he suggested that their remedy to the drainage problem would not be adequate since the existing 12' pipe does not handle the current drainage. He also questioned the practicability of the retaining wall plan.

Ms. Anne Bolling, 3753 Sachem, stated that the proposed residence is in violation of the applicable hillside and historic district guidelines and that the charm of the neighborhood would be eliminated with the addition of the residence. She believed the house should not be compared to the newer houses on the street, but should relate to older homes instead. She pointed out that the proposed 4000 s.f. residence is almost three times that of the average residence on the street. Ms. Bolling also expressed concern with trees being cut down.

Mr. Mark Godbey, Attorney-at-Law, representing Dan and Kellie Lloyd Jr., stated that once constructed, the residence would obstruct his clients' views from their residence at 3748 Sachem Avenue. Mr. Godbey stated that a deed restriction created in 1978 reserved a scenic view easement for Lot #42, providing for an unobstructed view of the Ohio River and Ohio River valley. He stated the easement had since been modified and further research is necessary to determine if it is still legally binding. Mr. Godbey suggested that if the house were setback 44', the average of the setback of the adjacent two properties, it would resolve the view obstructions, having contended that as proposed the structure does not meet the minimum setback requirements.

Mr. Senhauser replied that the Board cannot resolve title issues in this venue; however, setbacks as related specifically to the underlying zoning are germane. Mr. Forwood

responded that zoning stipulates that setbacks are determined by the average setback of the buildings on the same side of the street and within 200 ft. of the property. In this situation, two buildings further downhill from the property, which are only 10 ft. off the property line also included. The resulting setback is therefore calculated to be 21 ft.

Mr. Godbey stated another issue is that the community council has not had the opportunity to vote on the proposal. Mr. Young has indicated that they meet again on September 15th and would like the opportunity to review a surveyor's plot that indicates the exact placement of the structure.

Mr. Godbey also contended that the proposal does not meet the applicable EQ-HS guidelines, nor does it meet the historic district guidelines. He referenced the historic district guideline that stipulates that new structures should be sited with setbacks similar to adjacent buildings, which Mr. Godbey submitted speaks to the houses on either side of the proposed structure. Mr. Godbey also cited *Segal v. Folkers and the Zoning Board of Appeals of The City of Cincinnati* where in 1998, the First Appellate District of Ohio Court of Appeals overturned the Zoning Board's decision to uphold the hearing examiner's decision. The case involved a homeowner in Mt. Adams who proposed to tear his house down and build a much larger one. The decision states that the examiner "... did not address whether and how the proposed structure was designed to respect the views of other landowners, as contemplated by the guidelines." Mr. Godbey asserted that the fact that zoning variances are not necessary does not mean they should be able to obtain a Certificate of Appropriateness.

In response to the Mr. Bloomfield who questioned if setting the house back another three feet would be sufficient for his client, Mr. Godbey stated that his client's desire is to have his sight line maintained. Not being a surveyor, he could not make the determination. He would like the opportunity to have a survey done to determine exactly how much the structure would have to be set back to maintain his clients' sight lines. Mr. Godbey acknowledged that Drackett & Garber should be able to obscure some of his clients' view, but not the major view. His clients are asking to preserve about 1/3 of their view. He conceded that they have a right to develop their property, but they should not be allowed to profit at his client's expense – diminishing the property value of their home. He had hoped Mr. Garber would come to this meeting with an architectural drawings of an aerial view showing the proposed setback and sight lines.

Vincent Stamp, 3734 Sachem Avenue, questioned whether the property could handle a structure on it considering the existing stormwater ravine. Contrary to the staff report, Mr. Johns informed him that he would have to see details of the proposed plan to determine if it would be adequate. His second concern was in regards to view obstruction. Mr. Stamp stated he chaired the Mayor's Task Force on Environmental Quality in 1972, which eventually proposed the adoption of EQ districts. They also recommended historic conservation districts be promulgated into law. At that time they put into the discretion of the Board the determination of what is a reasonable respect for views. He stated that data has not been presented to determine how much of a setback is needed to preserve views. He suggested that this data be made available, as well as details on the materials.

Tim Burke, Attorney-at-Law, said that Mr. Stamp and Mrs. Stamp asked him to assist them in dealing with the legal issues associated with this proposal. He stated the developer has the obligation to establish that this proposal meets the requirements of the EQ and historic districts. The Board does not have the necessary documentation and

therefore the proposal is not ready for action by the Board. Necessary documentation includes:

- Details from the developer including a report and specific plans as to what will happen with water runoff;
- Documentation from the developer that can be reviewed by both the Board and the neighbors that shows current views and the resultant views after the proposed project is built.
- A geotechnical report
- Landscape plans;
- Details as to what the house will look like, including material samples and color; and
- Instead of conditioning the approval of the project upon the developer reducing the project in size, the neighbors should be allowed the opportunity to comment on the project that is actually being built.

Mr. Burke emphasized that nothing on Sachem compares with the proposed residence, which is essentially twice as large as anything else on the street and does not fit in with the neighborhood.

Ann Stamp, 3734 Sachem Avenue, requested that the Board consider what is reasonable in making their decision.

Carroll Roberts, 3749 Sachem Avenue, questioned why the applicant changed the proposal from a single family to a two family. He suggested that the applicant is not being sensitive to the neighborhood. In response to Mr. Bloomfield, Mr. Roberts acknowledged that the applicant has property rights that allow him to build within the constraints of the zoning code, but stated that he must also consider the applicable guidelines.

Mr. Garber responded to issues raised. In regard to the view easement, he stated that their lot is not mentioned in the easements presented. In addition, they want to respect views and are willing to move the building back. In terms of scale and size, he explained that their proposed residence is only about 5 feet wider than most of the houses on its side of the street, which being a 70' lot as opposed to 40' seems reasonable in terms of scale and size. He stated that proportionally, the residence is in scale with the rhythm from the front of the house and the height is now lower than one half of the houses on their side of the street. He acknowledged that there have been revisions to the plans, but they have modified their proposal in response to requirements from various City departments. They presented updated drawings four days prior to the community council meeting on the 18th, but the council chose not to show them. Mr. Rings added that they had asked Mr. Young if they should attend the community council meeting on the 18th, and he responded that their issue was not on the agenda, so there was no reason for them to attend. In regard to conversations with MSD, Mr. Rings clarified that Mr. Johns had indicated that everything they had proposed with respect to stormwater would meet their requirements.

BOARD ACTION

The Board voted unanimously (motion by Spraul-Schmidt, second by Bloomfield) to table this item to allow the applicant time to provide the following information:

- 1) Current site conditions regarding stormwater and a specific plan on how stormwater issues will be addressed;
- 2) A large-scale aerial picture showing relevant surrounding buildings;
- 3) Documentation of view corridors and sight lines from buildings uphill in schematic plans and photos;
- 4) Documentation on stabilization of the hillside, which may include a geotechnical report; and
- 5) Proposed color and materials for the building and retaining walls.

CERTIFICATE OF APPROPRIATENESS, 18 MERCER STREET, OVER-THE-RHINE HISTORIC DISTRICT

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness for the demolition of the building at 18 Mercer Street, a contributing resource within the Over-the-Rhine Historic District.

The applicant, Jon H. Deifel, wishes to demolish the structure to comply with condemnation orders by Buildings and Inspections which require removal of the building or a remedy to the unsafe conditions. In addition, there is a prospective buyer who is conditioning the sale upon the approval of the demolition. The owner has not revealed the identity of the prospective buyer, but has indicated to staff that the buyer intends to construct new residences at the corner of Mercer and Walnut Streets.

Ms. Cowden explained that staff has not received adequate information to determine whether the building is financially feasible to rehabilitate or that justification exists to demolish the contributing resource. The supplemental guidelines allow the Board to approve the demolition of a building if it is necessary to carry out a Planned Unit Development; however, Mr. Deifel has not submitted information regarding new construction plans.

Ms. Cowden stated that staff reviewed with the applicant the documentation required for the Board to approve the demolition of a contributing building within an historic district when he first applied for a building permit in February 2003. The information that was provided was not sufficient to make a determination and staff has received no additional information since March. In response to Mr. Bloomfield, Ms. Cowden stated that generally staff does not present the Board with an incomplete application; however, the applicant has applied for a second permit and has requested that the Board consider his application as submitted.

Mr. Jon Deifel was present to address the Board. Mr. Deifel stated that the building has no useful life left and that it has no historic value. The neighborhood would benefit most from demolishing the building and bringing in a new development.

Mr. Senhauser explained that the Board has not been presented with data sufficient to make a case for economic hardship, nor has it been given information on how the property will be utilized to make a determination that it would be an allowable loss. Mr. Deifel responded that the identity of the buyer is no secret. OTR Walnut Housing, LTD. bought the building, but they do not wish to reveal their development plans until they have acquired all of the desired property. Mr. Deifel contended that it is a blighted area and that the demolition would rid the community of a nuisance. In response to Ms. Spraul-Schmidt, he conceded that he had not done anything to maintain the building since he bought it 20 years ago, but explained that he had bought the building and the

surrounding property with the intent of constructing a drive-thru warehouse for his business; however, he was never granted permission.

In reply to Mr. Bloomfield, Urban Conservator Forwood explained that the applicant asserted that he would have to incur additional expense if he provided the Board with any additional information. He added that he has been told that the block is being bought and there will likely be a demolition permit on the entire block; however, there is no plan for new infill building on the site at this time.

BOARD ACTION

The Board voted unanimously (motion by Bloomfield, second by Wallace) to table the application until the Board is provided with information on the site, on the immediate surrounding site, and the immediate neighborhood.

CERTIFICATE OF APPROPRIATENESS, 1118-1120 RACE STREET, OVER-THE-RHINE HISTORIC DISTRICT

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness to rehabilitate the building at 1118-1120 Race Street into two market-rate condominiums. The building is a contributing resource within the Over-the-Rhine Historic District.

Ms. Cowden explained that the owner/applicant has completed renovation of the upper floors and is beginning work on the exterior and first floor, which includes taking the non-original storefront addition off and re-establishing a residential façade. The historic appearance of the residential façade can be extrapolated from the rest of the building (1126-1128 Race Street), which is largely intact. There will be a recessed main entrance and window for each of the units. The openings will have flat lintels and a pre-cast concrete lintel course will extend above the windows and doors to cover the existing structural steel I-beam.

The proposal meets the Over-the-Rhine Comprehensive Plan as adopted by City Council in 2002 in reestablishing homeownership opportunities in the neighborhood. In addition, it meets the applicable historic district guidelines. Staff discussed with the applicant the possibility of amending the application to have arched lintels instead of the flat lintels on the first floor, and also to place the orientation of the windows and doors to reflect what was there historically (alternating windows and doors). He was amenable to the changes, but preferred the Board review the proposal as submitted because it would be less costly.

The owner/applicant, Gregory Badger, was present to respond to questions from the Board. Mr. Senhauser suggested that even with a flat lintel, the applicant consider putting masonry between the string course and the lintel. The openings would likely be shorter in height and the stringcourse would become the alignment. Ms. Sullebarger explained that the proposal meets the guidelines as submitted; however, she hoped there would be an opportunity for the applicant to respond to Mr. Senhauser's suggestion to put courses of brick above the windows on the first floor. Mr. Badger stated that he would not know exactly where the I-beam is in relation to the windows until he takes off the façade, but his intent was to match the window height with the building to the north. The Board agreed that it was not imperative that the lintels be arched to match the adjacent building.

BOARD ACTION

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to approve a Certificate of Appropriateness for the proposed work with the condition that final construction drawings, including fence and window details, be submitted to the Urban Conservator for approval prior to construction.

**CERTIFICATE OF APPROPRIATENESS AND ZONING VARIANCES, 7
ANNWOOD LANE, EAST WALNUT HILLS HISTORIC DISTRICT**

Staff member Caroline Kellam presented the staff report on this request for a Certificate of Appropriateness and zoning variances to construct a semi-circular driveway and detached garage at 7 Annwood Lane. The residence is a contributing resource within the East Walnut Hills Historic District.

Ms. Kellam stated that a single lane, narrow driveway leads to the original two-car garage, which is contained within the footprint of the house under the rear terrace. The location of a fence, which surrounds an in-ground swimming pool to the rear of the house and the turning radius with the narrow driveway makes it difficult to access the garage.

The applicant proposes to complete the project in two phases. The first will involve the construction of an 11' wide semi-circular drive set approximately 13' from the house and approximately 31' from the front property line. The second phase includes the construction of a detached two-car wood frame garage with a gabled roof and cupola, to be situated in what would be considered the front yard. The footprint will measure 29' x 35' and be 18' to the midpoint of the roof.

Ms. Kellam described zoning issues associated with the proposal. Parking facilities may not be located in any front yard, therefore, a zoning variance would be required to construct the front yard semi-circular driveway. In addition, accessory buildings may only be erected in a rear yard and may not exceed 12-½ feet in height. The front yard location of the proposed garage would require a variance and a variance would be necessary for the height and the parking associated with the new garage/driveway.

The historic guidelines state that reducing greenspace by adding additional pavement for driveways or parking areas should be limited whenever possible. Also, front yard parking should be permitted only in extreme situations and parking lots should be sufficiently screened to minimize the view of parked cars. Ms. Kellam pointed out that the applicant intends to retain the existing driveway, even though 75% of it will not be used. The combination of the new garage construction and the new and existing driveways will result in over 50% of the front yard being pavement, and a significant reduction of greenspace. Ms. Kellam stated that staff recognizes the need for the garage with the front yard location, and finds that its design meets the historic district guidelines; however, staff does not believe there is justification to construct the semi-circular driveway.

Ms. Kellam stated that no one attended the pre-hearing that was held. Mary Ann Lee, President of the East Walnut Hills Assembly, stated that the Assembly supports the project on the condition that no neighbors object; Staff has received no comments.

Applicant/Owner Mr. Tom Finn was present to respond to questions from the Board. He described the constraints of the existing driveway and garage location. They often have three cars parked at the residence, requiring one to be parked on the street. Mr. Finn

explained that in they intend to convert the existing garage into a pool house utilizing the existing driveway. Staff's recommendation to replace the existing drive with greenspace would interfere with that plan and their desire to have access to the kitchen door, which is situated on the north side where the driveway currently runs. They also hope to add a porch off the living room on the south elevation. If they are not permitted to construct the semi-circular drive to the front, they would have to push the drive 25' towards the house to allow for a turnaround, which would not permit the future porch.

Mr. Finn stated they are willing to provide a landscaping plan to include screening the garage and driveway. He remarked that he has received no complaints from neighbors and his proposal would not affect a large number of people since there is no significant drive-by traffic.

Mr. Senhauser replied that the underlying zoning is very clear about front yard parking, therefore, the most problematic piece of his proposal is the semi-circular drive. In addition, the East Walnut Hills Historic District guidelines specifically mention retaining mature trees whenever possible. The significant mature tree in the front of the house would be lost with the paving of the loop. He suggested that while it may not be desirable to exit the driveway by backing out, there would be little traffic to impede him. He acknowledged the applicant's desire to drive to the side door by the kitchen, but suggested that the remainder of the drive be abandoned.

[Mr. Kirk left the meeting]

Mr. Senhauser added that most semi-circular drives that occur in East Walnut Hills pre-date the establishment of the historic district. Ms. Kellam stated that in addition, most of the existing ones occur on larger lots and are setback considerably more from the street.

Dr. Richard Vilter was present to address the Board. Dr. Vilter stated that in terms of the garage, as long as the trees and other foliage between the Finn's property and the Vilter property are preserved or replaced, he is in support of the construction of the garage.

In response to Ms. Sullebarger, Ms. Kellam explained that the 18' height of the proposed garage is measured to the midpoint of the roof and does not include the cupola and weather vane. Ms. Sullebarger remarked that the cupola is not in proportion with the rest of the garage. She stated that Mr. Kirk pointed out prior to leaving that the cupola distracts you from the house, where the garage should sit back unnoticed. In response to Ms. Sullebarger's question if the applicant would be amenable to eliminating the cupola, Mr. Finn responded that it was a decision between the architect and his wife, who were not present, but he did not believe she would be amenable to eliminating it.

BOARD ACTION

The Board voted unanimously (motion by Bloomfield, second by Spraul-Schmidt) to take the following actions:

- 1) Approve a Certificate of Appropriateness for the construction of the accessory garage structure at 7 Annwood Lane with the following conditions:
 - a. Eliminate the proposed semi-circular driveway in the front of the house;
 - b. The existing driveway may remain to the kitchen door; however, the remainder shall be abandoned and green space be created in its place;
 - c. Eliminate the cupola; and

- d. A final landscape plan for the front yard, which would include screening of the new garage and driveway, be submitted to the Urban Conservator for approval prior to issuing a Certificate of Appropriateness or building permit for any work on the garage and its access driveway.
- 2) Grant a variance to Section 1471-204(b) to permit the construction of the access driveway directly associated with the new garage in front of 7 Annwood Lane;
- 3) Grant a variance to Section 1469-121(a) to permit the construction of the accessory garage structure in the front yard and measuring 18 feet in height; and
- 4) Find that such relief from the literal implication of the Zoning Code:
 - a. Is necessary and appropriate in the interest of historic conservation so as not to adversely affect the historic architectural or aesthetic integrity of the district; and
 - b. Will not be materially detrimental to the public health, safety, and welfare or injurious to the property in the district or vicinity where the property is located.

NATIONAL REGISTER NOMINATION, GLENCOE-AUBURN HOTEL AND GLENCOE-AUBURN PLACE ROW HOUSES, GLENCOE PLACE, LEROY COURT, VIEW COURT

Applicant Tom Hefley submitted the nomination for the Glencoe-Auburn Hotel and Glencoe-Auburn Place Row Houses to be considered for the National Historic Register of Historic Places. The buildings are eligible under Criterion "C" as a distinctive example of 19th century brick urban row house architecture in Cincinnati. As a whole, they retain a high degree of integrity. Mr. Hefley confirmed for the Mr. Senhauser that the rehabilitation of the row houses in the 1970's resulted in design awards. Unfortunately, despite the efforts of The Mount Auburn Good Housing Foundation, the area suffered a swift decline and the structures eventually became havens to crime and loitering.

BOARD ACTION

The Board unanimously (motion by Sullebarger, second by Bloomfield) to support the nomination of the Glencoe-Auburn Hotel and the Glencoe-Auburn Place Row Houses to the National Register of Historic Places and direct staff to forward the Board's support to the Ohio Historic Preservation Office.

ADJOURNMENT

As there were no other items for consideration by the Board, the meeting adjourned.

William L. Forwood
Urban Conservator

John C. Senhauser
Chairman

Date